

### REMARKS

The Office Action mailed July 5, 2006 has been carefully considered and the following response prepared. Claims 1-14 are pending in the application. Claim 2 has been amended as discussed below. New claims 15 and 16 have been added. No new matter has been added.

At page 2 of the Office Action, the Examiner rejected claim 2 under 35 USC 112, second paragraph as indefinite.

Claim 2 has been amended to delete phenylsulfonylaminocarbonyl-triazolinones, phenylsulfonylureas, heteroarylsulfonylaminocarbonyltriazolinones and heteroarylsulfonylureas, recited as the preferred types of compounds. The preferred types of compounds are now presented in new claims 15 and 16. Withdrawal of this section 112, second paragraph rejection is respectfully requested.

At page 3 of the Office Action the Examiner rejected claims 1-14 under 35 USC 103 as being unpatentable over the combined teachings of Schnabel et al. (U.S. Patent 6,693,063), Wurtz et al. (U.S. Published application 2002/0016263) and Sixl (U.S. Patent 6,479,432). The Examiner stated that it would have been *prima facie* obvious to the ordinary artisan at the time the invention was made to have combined Applicants' components in a single herbicidal oil suspension concentrate because the prior art teaches that it was well known in the art to combine the disclosed sulfonylurea herbicides, safeners and solvents in a suspension concentrate, and because Wurtz et al. specifically discloses the utility of adding the sulfosuccinate esters in these compositions.

Applicants traverse this rejection. Applicants respectfully submit that a *prima facie* case of obviousness has not been established with regard to claims 1-14 and new claims 15 and 16. A *prima facie* case of obviousness requires the following: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. (MPEP at 2143).

Claims 1-14 are directed to oil suspension concentrates comprising a) one or more herbicidally active compounds from the group of the sulfonamides in suspended form, b) one or

more safeners, c) one or more organic solvents, and d) one or more sulfosuccinates and methods of use.

Schnabel et al. and Wurtz et al. disclose different types of formulations than the claimed oil suspension concentrates. Schnabel et al. discloses herbicidal compositions comprising one or more herbicides of the hydroxybenzonitrile type and one or more surfactants comprising as structural element at least twelve alkylene oxide units. Schnabel et al. mentions at column 10, lines 4-24 that the herbicidal compositions can be formulated in a number of ways, including suspension concentrates, but the patent exemplifies only a water-soluble concentrate (Formulation Example 1) and a microcapsule suspension (Formulation Example 2). The herbicidal compositions can also contain other agrochemically active compounds different from the hydroxybenzonitrile type herbicide, such as an ALS inhibitor or other type of herbicide. Sulfonylureas are disclosed as a preferred type of ALS inhibitor (columns 18-21). The herbicidal compositions can also contain safeners, solvents and wetting agents such as sulfosuccinic acid esters. It should be noted that the wetting agents are disclosed as a formulation auxiliary for the aqueous phase of dispersions (column 16, lines 15-19).

Wurtz et al. discloses liquid formulations comprising one or more derivatives of polycarboxylic acids and one or more active compounds from the group of ALS inhibitors. The liquid formulations disclosed in Wurtz et al. are preferably emulsion concentrates (paragraph 0012). Preferred types of polycarboxylic acid derivatives mentioned in Wurtz et al. include the sulfosuccinates (paragraphs 0032-0037). The liquid formulations can also contain organic solvents and safeners.

Sixl discloses suspension concentrates comprising one or more solid herbicidally active compounds from the group of the sulfonylureas in suspended form, one or more active compounds which are partially or completely dissolved in an organic solvent or solvent mixture, one or more nonionic emulsifiers, and optionally one or more ionic emulsifiers, and one or more thickeners or thixotropic agents and no water or up to 30 percent by weight of water in dissolved form.

There is no suggestion or motivation to modify or combine the teachings of the references as suggested by the Examiner. Schnabel et al. and Wurtz et al. disclose different types of formulations than the claimed oil suspension concentrates. Persons skilled in the art

would therefore not look to the teachings of Schnabel et al. and Wurtz et al. for guidance in preparing oil suspension concentrates. Sixl discloses suspension concentrates, but there is no disclosure or suggestion in Sixl of oil suspension concentrates containing sulfosuccinates. Applicants therefore respectfully submit that a *prima facie* case of obviousness has not been established with regard to claims 1-14 and new claims 15 and 16.

The claimed oil suspension concentrates suppress crystal formation, which can lead to unfavorable coating. Oil suspension concentrates A and B shown in the table below were prepared by milling the components in a bead mill. The particle size of the oil suspension concentrates obtained was determined by light scattering (LS Particle Size analyzer, Firma Coulter®). Oil suspension concentrate B, which does not contain the sulfosuccinate Triton® GR-7M E, has a particle size that is more than eighteen times larger than the particle size in oil suspension concentrate A which contains Triton® GR-7M E.

Table  
Concentration in Weight %

Ingredients	A	B
Foramsulfuron	2.32	2.32
Isoxadifen-ethyl	2.32	2.32
Atplus® 309F	9.00	9.00
Emcol® P 1860	4.00	4.00
Emulsogen® EL-400	4.00	4.00
Solvesso® 200	50.86	75.86
Bentone® 38	2.5	2.5
Triton® GR-7M E	25.0	-
Particle size (d50) in µm	1.21µm	22.6µm

There is nothing in any of the cited references that would lead a person skilled in the art to modify the suspension concentrate of Sixl with any type of formulation auxiliary or additive, much less one or more sulfosuccinates, in order to obtain an oil suspension concentrate wherein crystal formation is suppressed. The claimed oil suspension concentrates comprised of a) one or

more herbicidally active compounds from the group of the sulfonamides in suspended form, b) one or more safeners, c) one or more organic solvents, and d) one or more sulfosuccinates have a smaller particle size than an oil suspension concentrate formulated without a sulfosuccinate. The claimed oil suspension concentrates and methods of use of claims 1-14 and new claims 15 and 16 are thus not obvious in view of Schnabel et al., Wurtz et al. and Sixl.

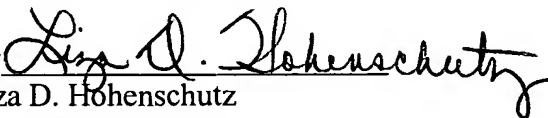
In summary, Applicants submit that a *prima facie* case of obviousness has not been established with regard to claims 1-14 and new claims 15 and 16. There is no suggestion or motivation to modify or combine the teachings of the references as suggested by the Examiner. Schnabel et al. and Wurtz et al. disclose different types of formulations than the claimed oil suspension concentrates. Sixl discloses suspension concentrates, but there is no disclosure or suggestion in Sixl of suspension concentrates containing sulfosuccinates. Additionally, there is no teaching or suggestion in any of the references to modify the suspension concentrate of Sixl with any type of formulation auxiliary or additive, much less one or more sulfosuccinates, in order to obtain an oil suspension concentrate wherein crystal formation is suppressed.

Claims 1-14 and new claims 15 and 16 are not obvious in view of Schnabel et al., Wurtz et al. and Sixl. Withdrawal of this section 103 rejection is respectfully requested.

In view of the above, the present application is believed to be in a condition ready for allowance. Reconsideration of the application is respectfully requested and an early Notice of Allowance is earnestly solicited.

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Respectfully submitted,

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